

**To: Attorneys Filing Sealed Civil Case Documents in CM/ECF**

**From: David Maland, U.S. District Clerk**



**Re: Electronically Filing Sealed Civil Case Documents**

**Date: November 16, 2006**

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On October 27, 2006, Local Rule CV-5(a)(7) was amended by General Order 06-15 as follows:

- (7) Documents requested or authorized to be filed under seal or filed ex parte shall be filed in electronic form. ~~In non-patent cases, unless otherwise directed by the clerk's office, such documents shall be submitted on a CD-ROM. In patent cases, parties shall~~ Attorneys must contact the clerk's office to obtain permission to file documents under seal or ex parte using the court's CM/ECF system. All sealed or ex parte documents filed with the court must comply with the file size and other form requirements of Local Rules CV-5(a) and CV-7. Counsel is responsible for serving documents under seal to opposing counsel, and may do so in electronic form, and for complying with Local Rule CV-5(a)(9) regarding courtesy copies of filings. When a sealed order is entered by the court, the clerk will send a sealed copy of the order only to the lead attorney for each party (see Local Rule CV-11), who is responsible for distributing the order to all other counsel of record for that party.

In order to file sealed civil case documents electronically (including ex parte) in conformance with the new rule amendments, please follow these steps:

1. If the court already has granted authorization to seal the document(s) in your case, include the written certification following your certificate of service per Local Rule CV-5(c), and proceed to step 4 below. [Note: a previously signed protective order constitutes authorization to file document(s) under seal that were designated as confidential by the protective order].
2. If you do not yet have leave of court to seal the document, you must first electronically file a motion requesting leave to seal. Do not attach the document(s) you are seeking to seal to the motion, as the motion will not be sealed. The motion for leave to seal should be electronically filed on or before the filing deadline for the document you are seeking to seal. After the judge grants your motion, include the Local Rule CV-5(c) certification in your document and proceed to electronic filing per step 4 below.

3. If a non-sealed filing contains an exhibit that must be sealed, the entire filing must be filed under seal, including the exhibits. Sealed exhibits should be filed as an attachment to the main document and are subject to the filing procedures specified in steps 4, 5 and 6.
4. Contact the clerk's office to request permission to file documents under seal (or ex parte) for each case. The clerk's office will ask a few questions and then grant you electronic access to "sealed events, "patent events" or "ex parte document" on the CM/ECF attorney menu (see step 5). Permission to file sealed documents is granted per case per attorney. If you file documents without obtaining permission, the documents will not be sealed.
5. Look for "sealed events" or "patent events" on the attorney menu. The docket entry text you create should be as descriptive as possible without containing confidential information. You should be able to identify the sealed document from your docket entry text. File your document(s) using "sealed events" (non-patent cases), "patent events" (patent cases) or "ex parte document" under the "sealed - other documents" category (ex parte filings).
6. Documents larger than 5 megabytes ("MB") will need to be divided into multiple files per Local Rule CV-5(a)(4). Check file sizes before you begin filing. You can attach several documents to a single docket entry. The size of the PDF documents attached to the docket entry can be greater than 5 MB, but each individual document must be less than 5 MB. The CM/ECF system will "time out" if uploading the documents for a docket entry takes longer than one hour. If you cannot upload your main document and attachments within an hour, then file what you can before the entry "times out," then use the "sealed additional attachments" event on the CM/ECF attorney menu to file the remaining attachments.
7. Once filing is complete, CM/ECF will send a Notice of Electronic Filing ("NEF") to the presiding judge and counsel of record. The docket entry text will be visible on the electronic docket sheet, but the documents themselves will be sealed (not visible). You do not need to send a CD or a paper copy of the document(s) to the clerk's office. [Note: when an ex parte document is filed electronically, the only person who receives an NEF is the presiding judge, and no docket entry appears on the public electronic docket sheet.]
8. Since the filed electronic document is sealed to everyone except the presiding judge, you, as the filing attorney, are required to effect service of the sealed document(s) on other counsel of record. Receipt of the NEF by opposing counsel does not constitute service of the document, since it does not convey the actual sealed electronic document(s). [Note: this section does not apply to documents filed ex parte, which by definition are not served on opposing counsel. See also note to step 7.]